

REMARKS

Claims 1-2 and 4-6 are currently pending on the merits and under examination. Claim 1 has been amended more clearly recite the claimed invention. Claims 3 and 7-8 have been canceled without disclaimer or prejudice. Applicants reserve the right to file one or more continuation or divisional applications to any withdrawn or canceled subject matter. No new matter has been added.

I. Objections To The Specification

The specification is objected to at page 2 of the office action for the recitation of “a mino” on page 6, line 24 of the specification. Applicants have amended this typographical error as well as other typographical errors.

Accordingly, Applicants respectfully submit that the objection to the specification should be reconsidered and withdrawn.

II. Objections To The Claims

Claims 7-8 are objected to at page 2 of the office action for duplicating the subject matter of claim 1.

Applicants have cancelled claims 7-8 without disclaimer or prejudice. Accordingly, Applicants respectfully submit that the objection to the claims should be withdrawn.

III. Rejection Of The Claims Under 35 U.S.C. § 101

Claims 7-8 are rejected at page 3 of the office action under 35 U.S.C. § 101 for allegedly having an improper definition of a process without reciting any steps involved in the process.

Applicants respectfully submit that claims 7-8 have been cancelled thus rendering the rejection moot. Applicants respectfully submit that this rejection should be withdrawn.

IV. Rejection Of The Claims Under 35 U.S.C. § 112, Second Paragraph

Claims 1-8 are rejected at page 2-3 of the office action under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the office action alleges that the phrase “rare condons” in claim 1 are unclear and the phrase “the gene silencing”

is lack of antecedent basis. Additionally, claims 7-8 are rejected for allegedly failing to further set forth any steps in the method of use of claim 1.

Applicants have amended claim 1 to overcome the rejection. Applicants have cancelled claims 7-8 to render the rejections of claims 7-8 moot.

Therefore, Applicants respectfully submit that the rejections of claim 1-8 under 35 U.S.C. § 112, second paragraph, should be reconsidered and withdrawn.

V. Rejection Of The Claims Under 35 U.S.C. § 112, First Paragraph

A. Written Description

Claims 1-8 are rejected on pages 4-5 of the office action under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner asserts that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled artisan the possession of the claimed invention. Specifically, the Examiner alleges that a representative number of target genes have not been disclosed to support the breadth of the claims.

Applicants respectfully submit that the claims have been amended thereby overcoming the rejection. Therefore, Applicants respectfully submit that the rejections of claim 1-8 under 35 U.S.C. § 112, first paragraph, should be reconsidered and withdrawn.

B. Enablement

Claims 1-8 are rejected on pages 6-8 of the office action under 35 U.S.C. § 112, first paragraph, as allegedly not being enabled. Specifically, the Examiner asserts that the specification does not disclose sufficient target proteins other than the Potato Virus X (PVX) to support the claims directed to any target gene capable of conferring viral resistance to any virus in any host plant. The Examiner further alleges that the specification does not provide guidance on how to get rare codons from a given plant and the mechanism of how rare codons regulate mRNA stability or protein translation in plant.

Applicants respectfully submit that the claims have been amended thereby overcoming the rejection. Therefore, Applicants respectfully submit that the rejections of claim 1-8 under 35 U.S.C. § 112, first paragraph, should be reconsidered and withdrawn.

VI. Conclusion

The foregoing amendments and remarks are being made to place the application in condition for allowance. Applicants respectfully request entry of the amendments, reconsideration and the timely allowance of the pending claims. A favorable action is awaited. Should the Examiner find that an interview would be helpful to further prosecution of this application, she is invited to telephone the undersigned at their convenience.

If there are any additional fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Dated: **September 22, 2008**

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Respectfully submitted,
Morgan, Lewis & Bockius LLP

A handwritten signature in dark ink, appearing to read 'D L Fanelli', written over a horizontal line.

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